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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,561	02/18/2004	Sandra Hruza	BION/0013	9292
24945	7590	09/20/2007		
STREETS & STEELE 13831 NORTHWEST FREEWAY SUITE 355 HOUSTON, TX 77040			EXAMINER LEVY, NEIL S	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/781,561	Applicant(s) HRUZA, SANDRA	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 23, 24 and 28-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 25-27 and 41-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1- 48 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/24/05</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I in the reply filed on 7/6/07 is acknowledged.

Claims 23,24,28-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/6/07.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 25-27 are rejected under 35 U.S.C. 102(a & e) as being anticipated by VAN OOIJEN EP 0620014.

Animal bedding material and manure (page 2, top) treated to reduce ammonia and odors, with C16-24 fatty acids (page 2, bottom) mixed with vegetable oils, and include oleic and linoleic, palmitic and stearic acids (page 3).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-17, 19-22, 25-27, 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over VAN OOIJEN and KUHNS EPO 288633.

See VAN OOIJEN above, animal bedding is treated with fatty acids, the amounts applied determinable by applicator based on testing for ammonia reduction (Example 1). The ratio of acids and amounts to be applied would be within applicant's range, absent any objective showing by applicant of unobvious or unexpected effects as bedding in the same as applicant's- saw dust (page 3).

KUHN also treats bedding ([page 3] of sawdust (page 4, bottom) with oxygen sources, as Na formaldehyde bisulfite and Na bicarbonate (page 4, lines 28-56). Silica, clay-like material, and fatty acids, stearic, are added with or without other N or P sources. Examples indicate amounts of odor control substances to add are determined by effects.

The combination would be advantageous as many odors could be readily controlled.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize odor control means, to use any of art recognized means, as of VAN OOIJEN and KUHNS modified as desired to increase stability, dispersibility, compatibility of ingredients, processing ease, & decreased toxicity to handlers.

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The amounts and proportions of each ingredient are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the form of each ingredient to optimize the effect desired, depending upon the particular use and application method of interest, reduction of toxicity, cost minimization, enhanced effects. Applicant has not provided any objective evidence of criticality, nonobvious or unexpected results that the administration of the particular ingredients' or concentrations provides any greater or different level of prior art expectation as claimed, and the use of ingredient for the functionality for which they are known to be used is not basis for patentability.

Claim 1-17, 20-22, 25-27, 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over VAN OOIJEN and KUHNS EPO 288633 in view of WAGNER et al 4251255.

VAN OOIJEN & KUHNS (above) provides the essence of the instant invention. But not all aspects claimed. WAGNER provides improved fertilizer (column 3, lines 50-56) including ferrous sulfate (column 5, line 20) mixed with wood animal bedding material, wood flour (column 5, lines 42-43) silica (lines 65, column 5) and calcium phosphate (column 6).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize a natural composition, to use one of --- VAN OOIJEN & KUHNS -----modified with --- WAGNER -----to provide acceptable application. ---- WAGNER teaches one having ordinary skill in the art would be motivated to perform this modification in order to provide useful agricultural compositions.

The selection of each ingredient is a result effective parameter chosen to obtain the desired effects. It would be obvious to vary the nature of each ingredient to optimize the effect desired.

There is no unobvious and/or unexpected results obtained since the prior art is well aware of the use of---animal bedding -----as fertilizer and the use of ingredients for the functionality for which they are known to be used is not a basis for patentability.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619.

The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
NEIL LEVY  
Primary Examiner  
Art Unit 1615

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